

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

FIRST APPEAL No 2079 of 1997

For Approval and Signature:

Hon'ble MR.JUSTICE S.K.KESHOTE

=====

1. Whether Reporters of Local Papers may be allowed to see the judgements?

2. To be referred to the Reporter or not?

3. Whether Their Lordships wish to see the fair copy of the judgement?

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?

5. Whether it is to be circulated to the Civil Judge?

SHANTABEN PANNDURANG JADHAV

Versus

MANUBHAI CHHAGANBHAI PATEL

Appearance:

MR MTM HAKIM for Appellants

None present for Respondents

CORAM : MR.JUSTICE S.K.KESHOTE

Date of decision: 22/09/98

ORAL JUDGEMENT

1. This appeal under section 30 of the Workmen's Compensation Act, 1923 has been filed by the original claimant-appellant against the award of the Commissioner under the Workmen's Compensation Act, Vadodara in

Workmen's Compensation Application No.76 of 1989 to that part of the award wherein on the amount of compensation, the interest has not been awarded to her.

2. Learned counsel for the appellants contended that the Tribunal has not assigned any reason whatsoever not to award interest to the claimant-appellant. Nobody put appearance to oppose this appeal.

3. I have given my thoughtful consideration to the submission made by the learned counsel for the appellant.

4. Section 4-A of the Act aforesaid, provides that compensation under section 4 shall be paid as soon as it falls due. Sub-section (2) of section 4-A of the Act aforesaid lays down that in cases where the employer does not accept the liability for compensation to the extent claimed, he shall be bound to make provisional payment based on the extent of liability which he accepts, and, such payment shall be deposited with the Commissioner or be made to the workman, as the case may be, without prejudice to the right of the workman to make any further claim.

Sub-section (3) of the said section is material for the purpose of deciding this appeal, which reads as under:

(3) Where any employer is in default in paying the compensation due under the Act within one month from the date it fell due, the Commissioner shall direct that the employer shall, in addition to the amount of arrears, pay simple interest thereon at the rate of 12 % p.a. or at such higher rate not exceeding the maximum of the lending rates of any scheduled bank as may be specified by the Central Government, by notification in the Official Gazette, on the amount due.

5. Learned counsel for the appellant submits that the employer-respondent has not deposited or paid the amount of compensation to the claimant within one month it fell due. From the award, I do not find any reason good, bad or indifferent has been given by it not to award the interest to the claimant-appellant. From the award, I find that the employer had notice of accident of his employee on the very day. Very specific finding has been recorded by the Commissioner under the Workmen's Compensation Act that the respondent No.1 went to see deceased in the hospital and he had the knowledge of accident. Though very specific reason has not been given

for non-awarding of interest to the claimant-appellant but it spells out from the judgment that interest would not have been awarded for the reason that the employer has not given the information regarding the accident to the insurance company. Even if it is taken to be correct then the insurance company had the notice of the claim application and it is understandable that it would have immediately thereafter deposited the amount of compensation but that has also not been done. Otherwise also, on this ground the insurance company could not be relieved of its liability to pay the amount of compensation. Reference in this respect may have to the decision of the Apex Court in the case of Ved Prakash vs. Prem Devi reported in 1997 (8) SCC 1. In this case, the Tribunal has clearly fell in error in not awarding the interest to the claimant-appellant on the amount of compensation.

6. In the result, this appeal succeeds and the same is allowed. The respondents No.1 and 2 are directed to pay to the appellant the interest at the rate of 6% on the amount of compensation awarded from the date of filing of the application for compensation till 31-3-1997 the date of award, and from 1-4-1997 the claimant-appellant shall be entitled for interest on the amount of compensation at the rate of 18% as awarded by the Commissioner under the Workmen's Compensation Act. In view of the fact that the other side has not put appearance, no order as to costs.

zgs/-